

⇔77362-112⇔

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United States

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ECCESTATES 5:8

⇔77362-112⇔
Clerk U.S. District Court
Judge Percy Anderson
312 N Spring ST
Case # 2:19-Cr-00016-Pa-1
LOS Angeles, CA 90012
United States

FILED
CLERK, U.S. DISTRICT COURT

JAN - 3 2024

CENTRAL DISTRICT OF CALIFORNIA
BY *mt* DEPUTY

Note: If represented by an attorney, provide name, address & telephone number. It is your responsibility to notify the Clerk of Court in writing of any change of address.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

FULL NAME OF MOVANT
(Include name under which you were convicted)

Petitioner.

DAVID MICHAEL LINEHAN

CASE NUMBER:

CV 2:24-cv-00245-PA

To be supplied by the Clerk of the United States District Court

2:19-CR-00016-PA-1

CR 19-16 PA-1

Criminal case under which sentence was imposed.

MOTION TO VACATE, SET ASIDE OR
CORRECT SENTENCE BY A PERSON IN
FEDERAL CUSTODY
28 U.S.C § 2255

INSTRUCTIONS - READ CAREFULLY

This motion must be legibly handwritten or typewritten and signed by the movant under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form. Where more room is needed to answer any questions use reverse side of sheet.

Additional pages are not permitted. No citation or authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

Upon receipt, your motion will be filed if it is in proper order. NO FEE is required with this motion

If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to pay costs. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in a different districts, you must file separate motions as to each judgment.

Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.

When the motion is fully completed, the original and three (3) copies must be mailed to the Clerk of the United States District Court, whose address is 312 North Spring Street, Los Angeles, California 90012.

I REQUEST

MOTION

1. Name and location of court which entered judgment of conviction under attack: U.S. DISTRICT COURT,
CENTRAL DISTRICT, 312 N. SPRING STREET, LOS ANGELES, CA
90012
2. Date of judgment of conviction: 16 AUGUST 2019
3. Length of sentence: 33 MONTHS Sentencing judge: PERCY ANDERSON
4. Nature of offense or offenses for which you were convicted: THREAT BY INTERSTATE
COMMERCE 875

5. What was your plea? (check one)

- ☒ Not guilty
☐ Guilty
☐ Nolo Contendere

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial: (check one)

- ☒ Jury
☐ Judge only

7. Did you testify at the trial?

- ☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

- ☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court COURT OF APPEALS NINTH CIRCUIT

(b) Result REJECTED

(c) Date of result N/A

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

☐ Yes ☒ No

11. If your answer to question number 10 was "yes", give the following information:

(a) (1) Name of Court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☐ No

(5) Result _____

(6) Date of result _____

(b) (1) Name of Court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☐ No

(5) Result _____

(6) Date of result _____

(c) (1) Name of Court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☐ No

(5) Result _____

(6) Date of result _____

(d) Did you appeal, to an appellate federal court having jurisdiction, the results of action taken on any petition, application or motion?

(1) First petition, etc. ☐ Yes ☒ No

(2) Second petition, etc. ☐ Yes ☒ No

(3) Third petition, etc. ☐ Yes ☐ No

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you are being held unlawfully.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date. For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you selected one or more of these grounds for relief, you must allege facts in support of the grounds listed below. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by violation of the privilege against self-incrimination.
- ✓ (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- ✓ (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: DENIAL OF FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION TO PRACTICE MY RELIGION

Supporting facts (tell your story briefly without citing cases or law): SEE ATTACHMENT "A"

"AT SOME POINT THE CHURCH MUST DIRECTLY TAKE ACTION AGAINST THE STATE TO STOP IT FROM PERPETRATING EVIL." THE U.S. DEPARTMENT OF STATE REPENTENTLY IGNORED MY DIPLOMATIC APPEALS TO REMOVE THEIR UNEXPLODED BOMBS & KILLED ONE OF MY CHILDREN IN AN ACT OF EVIL

B. Ground two: INEFFECTIVE ASSISTANCE OF COUNSEL, DENIED COMPETENT LEGAL COUNSEL BY THE COURT

Supporting facts (tell your story briefly without citing cases or law): I ASKED THE COURT TO APPOINT NEW COUNSEL AFTER ADITHYA MANI LIED IN COURT OF HAVING NO PRIOR KNOWLEDGE OF MY OPEN PHEN. MANI REFUSED TO OBJECT TO REPEATED BADGUESSING BY THE PROSECUTION DURING MY TESTIMONY, BRING UP MY "MADONNA" DEFENCE, ETC

C. Ground three: _____

Supporting facts (tell your story briefly without citing cases or law): _____

D. Ground four: _____

Supporting facts (tell your story briefly without citing cases or law): _____

13. If any of the grounds listed in 12 A, B, C and D were not previously presented, state briefly what grounds were not presented, and give your reasons for not presenting them: EQUAL PROTECTION UNDER THE UNITED STATES CONSTITUTION WAS DENIED BECAUSE COURT REFUSED TO PROVIDE COMPETENT, INDEPENDENT COUNSEL

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

☐ Yes ☒ No

I NEED COMPETENT LEGAL REPRESENTATION & AM NOT QUALIFIED TO REPRESENT MYSELF

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attached herein:

(a) At a preliminary hearing: ADITYA MANI

(b) At arraignment and plea: ADITYA MANI

(c) At trial: ADITYA MANI

(d) At sentencing: ADITYA MANI

(e) On appeal: N/A

(f) In any post-conviction proceeding: N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding: N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court at approximately the same time?

☐ Yes ☒ No

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

☒ Yes ☐ No

(a) If so, give the name and location of the court which imposed sentence to be served in the future: US DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA, 312 N. SPRING STREET, LA 90012

(b) Give the date and length of sentence to be served in the future: 17 FEB, 2023 CR-20-00917-ODW

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed sentence to be served in the future?

☒ Yes ☐ No

WHEREFORE, movant prays that the court grant him all relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on 28 DEC 2023
Date

Signature of Movant

the church "has an unconditional obligation to the victims of any ordering of society: even if they do not belong to the Christian community." Everyone knew that Bonhoeffer was talking about the Jews, including Jews who were not baptized Christians. Bonhoeffer then quoted Galatians: "Do good to all men." To say that it is unequivocally the responsibility of the Christian church to help all Jews was dramatic, even revolutionary. But Bonhoeffer wasn't through yet.

The third way the church can act toward the state, he said, "is not just to bandage the victims under the wheel, but to put a spoke in the wheel itself." The translation is awkward, but he meant that a stick must be jammed into the spokes of the wheel to stop the vehicle. It is sometimes not enough to help those crushed by the evil actions of a state; at some point the church must directly take action against the state to stop it from perpetrating evil. This, he said, is permitted only when the church sees its very existence threatened by the state, and when the state ceases to be the state as defined by God. Bonhoeffer added that this condition exists if the state forces the "exclusion of baptized Jews from our Christian congregations or in the prohibition of our mission to the Jews."

The church would be "in status confessionis" and here the state would be in the act of negating itself. This Latin phrase, which means "in a state of confession," was originally used as a specifically Lutheran phrase in the sixteenth century. By Bonhoeffer's time it had come to mean a state of crisis in which the "confession" of the gospel was at stake. To "confess the gospel" simply meant to speak forth the good news of Jesus Christ. Bonhoeffer continued, "A state which includes within itself a terrorized church has lost its most faithful servant."

Bonhoeffer went on to say that to "confess Christ" meant to do so to Jews as well as to Gentiles. He declared it vital for the church to attempt to bring the Messiah of the Jews to the Jewish people who did not yet know him. If Hitler's laws were adopted, this would be impossible. His dramatic and somewhat shocking conclusion was that not only should the church

* The term Confessing Church in large part was coined in reference to the phrase "in status confessionis." Those who believed that the German church had ceased to be the church of Jesus Christ because of the adoption of the Aryan Paragraph decided that they must break away and form the church anew. The new church was called the Confessing Church because it proclaimed the gospel of Jesus Christ.

ATTACHMENT A

allow Jews to be a part of the church, but that this was precisely what the church was: it was the place where Jews and Germans stand together. "What is at stake," he said, "is by no means the question whether our German members of congregations can still tolerate church fellowship with the Jews. It is rather the task of Christian preaching to say: here is the church, where Jew and German stand together under the Word of God; here is the proof whether a church is still the church or not."

Many would have remembered Galatians 3:28, declaring that "there is neither Jew nor Greek, bond nor free, male nor female, for you are all one in Christ Jesus." To underscore his point, Bonhoeffer concluded with words from Luther's commentary on Psalm 110:3: "There is no other rule or test for who is a member of the people of God or the church of Christ than this: where there is a little band of those who accept this word of the Lord, teach it purely and confess against those who persecute it, and for that reason suffers what is their due."

In the spring of 1933, Bonhoeffer was declaring it the duty of the church to stand up for the Jews. This would have seemed radical to even staunch allies, especially since the Jews had not begun to suffer the horrors they would suffer in a few years. Bonhoeffer's three conclusions—that the church must question the state, help the state's victims, and work against the state, if necessary—were too much for almost everyone. But for him they were inescapable. In time, he would do all three.

The advent of the Nazi victory and the Nazis' attempt to co-opt the church resulted in chaos within the church itself, and in fighting and politicking among the many factions of the church. Bonhoeffer wanted to drown out the cacophony of voices and look at these things calmly and logically. He knew that if these questions were not addressed properly, one would be reduced to merely "political answers" or "pragmatic" answers. One could begin to veer away from the true gospel, toward worshipping a god made in one's own image, rather than God himself, the "eternally other" of whom Barth had spoken and written. And just as many well-meaning Christians at Union had unwittingly abandoned that God for many good reasons, so too many of the well-meaning Christians in Germany were now doing. They were convinced that if they bent their theology a bit, it wouldn't matter—the results would

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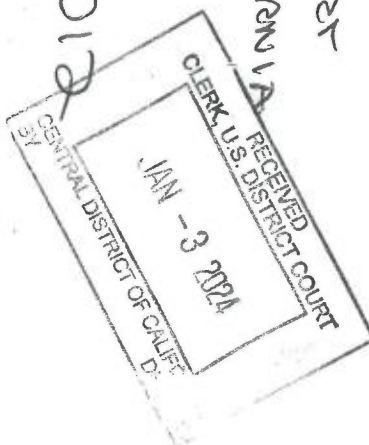
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URGENT

CLERK
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
312 N. SPRING STREET
LOS ANGELES, CA 90001

CASE # 2119 - CREOLE - PATTI



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